

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
Greenbelt Division**

In re

Case No. 24-13609

Smokecraft Clarendon, LLC

Chapter 11

Debtor.

/

RESPONSE TO ORDER TO SHOW CAUSE

Comes now Smokecraft Clarendon, LLC d/b/a Smokecraft Modern Barbecue. (“Smokecraft” or the “Debtor”), by and through undersigned proposed counsel, pursuant to this Honorable Court’s Order to Show Cause (the “Order,” as found at DE #10) and states as follows:

Slightly over 90 minutes after the Order was docketed on May 1, 2024, the Debtor filed the various small business documents required by Section 1187 of the Bankruptcy Code (incorporating Section 1116 of the Bankruptcy Code). DE #12. This was not a coincidence; the need to marshal and docket these items was recognized pre-petition and the Debtor was waiting for its accounting firm to furnish an updated balance sheet, which occurred the afternoon prior to the documents being uploaded. That the documents were not filed late the day prior, and were instead filed shortly after the Order was docketed, is a byproduct of nothing more than undersigned proposed counsel being otherwise occupied the afternoon the balance sheet was received from the accounting firm.

The Federal Rules of Bankruptcy Procedure provide that a court may *not* extend the time in which a Chapter 11 debtor is to file a list of the 20 largest unsecured creditors. Fed. R. Bankr. P. 9006(b)(2). The same provision specifies other time periods that may not be enlarged, including the time in which a meeting of creditors is convened. *Id.* Notably, however, the rules do not place such a restriction on the filing of small business documents at the time of a Chapter 11 case’s

commencement. And it is thusly urged that some contextual discretion is appropriate when considering the belated filing of small business documents.

The Order makes express reference to Section 1112(b)(4)(F) of the Bankruptcy Code. The Debtor respectfully submits that the filing of the subject documents, within two days of the case's commencement, should not be regarded as an "unexcused failure" of such gravity to merit penalization. Similarly, the Debtor also respectfully submits that Smokecraft is a sufficiently healthy business as to have a reasonable likelihood of timely confirming a plan of reorganization, 11 U.S.C. § 1112(b)(2)(A), that the unavailability of a current balance sheet at the time of filing (with knowledge one would promptly become available) constitutes "reasonable justification" for the slight delay, 11 U.S.C. § 1112(b)(2)(B)(i), and that the less-than-two-days within which the issue was cured, measured from the time of the petition for relief being docketed, constitute a "reasonable period," 11 U.S.C. § 1112(b)(2)(B)(ii).

The Debtor also observes that this is not a case displaying signs of nonchalance or absenteeism. Smokecraft filed full schedules with its petition for relief, docketed first day motions of even date therewith, attended the initial debtor interview with the Office of the United States Trustee, and has worked diligently and continuously behind the scenes to address the myriad issues so often attendant to the filing of a Chapter 11 case (unhappy creditors, disruptions in vendor services, etc.). This is a case with robust potential for success, spearheaded by a vibrant Debtor that plays an important role in the life of the persons it employees and the community it serves.

WHEREFORE, the Debtor respectfully prays this Honorable Court (i) discharge the Order; and (ii) afford such other and further relief as may be just and proper.

[Certificate of Service on Following Page]

Respectfully submitted,

/s/ Maurice B. VerStandig
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of May 2024, a copy of the foregoing was served electronically upon filing via the ECF system on all counsel who have entered an appearance herein, including:

- Lynn A. Kohen lynn.a.kohen@usdoj.gov
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/s/ Maurice B. VerStandig
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